



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
PETITION TO THE COMMISSIONER UNDER 37 CFR §1.181

APPELLANT: Mattson                    ATTY. DOCKET NO.: MAT-P-99-002

SERIAL NO.: 09/560,067                EXAMINER: O'Connor

FILING DATE: April 27, 2000 GROUP ART UNIT: 2167

INVENTION: "A SYSTEM AND METHOD FOR PROVIDING REAL-TIME  
RESTAURANT REVIEWS"

Commissioner for Patents  
Washington, D.C. 20231

**RECEIVED**

APR 19 2002

STATEMENT OF FACTS

SIR:

Technology Center 2100

On July 18, 2001, Appellant received an Office Action for the above-identified application indicating that Appellant's drawings were objected to under 37 CFR §1.83(a), a copy of which is attached as Exhibit A of the Appendix. In the Office Action, the Examiner alleged that Appellant has not shown "the receiving and storing of the information, the website, the positing of information on the website, and accessing the information via a computer, as well as the computer" in the drawings.

On August 23, 2001, Appellant responded to the Office Action with an Amendment specifically stating, under 37 CFR §1.83(a), that all elements of the claims were shown in the drawings, a copy of the Amendment is attached as Exhibit B of the Appendix. On October 30, 2001, the Examiner issued a Final Rejection refusing Appellant's argument that all elements of the claims were present in the drawings, but without any further substantive explanation,

a copy of which is attached as Exhibit C of the Appendix. On November 5, 2001, Appellant submitted a Notice of Appeal and on December 12, 2001, Appellant submitted an Appeal Brief in support of the Notice of Appeal, a copy of which is attached as Exhibit D and Exhibit E of the Appendix, respectively.

In Appellant's Appeal Brief, Appellant argued that all elements of Appellant's invention were included in the drawings. On March 6, 2002, the Examiner issued a Notification of Non-Compliance stating that the issue of whether the drawings contain all of the elements of the invention "was reviewable by petition within two months (non-extendable) of being reconsidered and sustained (made final) by the Examiner on October 30, 2001, but this requirement is NOT reviewable by appeal", a copy of the Notification of Non-Compliance is attached as Exhibit F of the Appendix.

37 CFR §1.83(a) states: "Conventional features disclosed in the description and claims, where their detailed illustration is not essential for a proper understanding of the invention, should be illustrated in the drawings in the form of a graphical drawing symbol or a labeled representation (e.g., a labeled rectangular box)."

Because a computer is commonly known to store, receive and access information, a labeled rectangular box is shown in Figure 2 to represent the storing, retrieving and accessing of information

instead of numerous pages of computer program functions and/or diagrams to illustrate the same. Further, since the information is an intangible item, the storing and retrieving of information can only be displayed using words, not diagrams, and is clearly set forth in Appellant's specification with reference to Figures 1 and 2.

Because websites are intangible and only capable of representation in the abstract, Figure 2 shows a rectangular box representing a network, for example, a network providing accessibility to a website. Additionally, Figure 2 shows a rectangular box representing "input means" and a "processing unit" which may be implemented to post the information on the website. Further, Figure 2 shows a "portable display means" capable of use by a user in a destination remote from the restaurant. The "portable display means" is used to represent any portable display means for sending, receiving and/or accessing the information. The portable display means may be any wireless device, such as a cellular telephone or a personal digital assistant, as set forth in the specification. (See specification, Page 9, lines 19-25 and Page 10, lines 5-11)

Because all of the features claimed in the invention are either shown in Figure 1 or are intangible and, therefore, are appropriately represented by the black box diagram in Figure 2, Appellant submits that the objection to the drawings was improper and should be immediately withdrawn.

In addition to the Examiner's objection to the drawings in the Notification of Non-Compliance, the Examiner issued an objection under 37 CFR §1.192(c)(3), stating that Appellant's Appeal Brief "does not contain a statement of the status of all the claims, pending or cancelled, or does not identify the appealed claims." With respect to this objection, Appellant submits that a statement of the status of all the claims, pending or cancelled, was provided in the Appeal Brief, in addition to the specific claims being appealed.

More specifically, on Page 2 of Appellant's Appeal Brief, Appellant stated:

### **III. STATUS OF CLAIMS**

Claims 1-29 are pending in this patent application, of which Claims 1-8 and 15-20 were withdrawn from consideration. A copy of the claims is appended hereto as the Appendix. The Final Rejection is appended hereto as Exhibit A of the Supplemental Appendix.

In addition, on Page 5 of Appellant's Appeal Brief, Appellant stated:

### **VI. ISSUE**

1. Would Claims 9-14 and 21-29 have been anticipated by *CyberDiner Internet Café Systems* (hereinafter *CyberDiner*) under 35 U.S.C. §102(b)?
2. Are the drawings improper under 37 CFR §1.83(a) for failing to show every feature of the invention specified in the claims?

### **VII. GROUPING OF CLAIMS**

Appellant argues for the patentability of independent Claims 9, 21 and 25 separately and apart from one another. In addition, Appellant

argues for the patentability of dependent Claims 10-14, 22-24 and 26-29 separately and apart from the independent claims from which they depend.

Further, in the Notification of Non-Compliance, the Examiner asserts that "[a] single ground of rejection has been applied to two or more claims in this application, and the brief includes the statement required by 37 CFR §1.192(c)(7) that one or more of the claims do not stand or fall together, yet does not present arguments in support thereof in the arguments section of the brief."

With respect to this assertion, Appellant submits that arguments were presented in the Appeal Brief arguing patentability of each claim, separately and apart. Appellant refers to pages 6-22 of the Appeal Brief which clearly and separately argues the patentable features defined in Claims 9-14 and Claims 21-29 and distinguishes those features from that which is NOT disclosed by the art.

**ISSUE FOR REVIEW AND ACTION REQUESTED**

Appellant herewith submits this Petition to the Commissioner for consideration of the issue of whether Appellant's drawings comply with 37 CFR §1.83(a). Appellant requests the Commissioner to indicate that the Appellant's drawings comply with 37 CFR §1.83(a). In addition, Appellant submits this Petition to the Commissioner to determine whether Appellant complied with 37 CFR §1.192(c)(3) and 37 CFR §1.192(c)(7). Appellant requests the

Commissioner to indicate that Appellant complied with 37 CFR §1.192(c)(3) and 37 CFR §1.192(c)(7). Finally, Appellant requests the Commissioner to forward the Appeal Brief to the Examiner for responding to the Appeal Brief with an Examiner's Answer or, alternatively, to allow the application or to forward an Office Action removing the finality of the Office Action and re-examining the claims of the application. In addition, Appellant requests a refund of the fee for this petition should this petition be granted as the issues raised by the Examiner requiring the necessity of this petition are clearly erroneous.

CONCLUSION

Enclosed is a check in the amount of \$130.00, the requisite fee for filing this petition. If, however, any additional fees are due or owing in view of this Petition, Appellant authorizes the Patent Office to charge Deposit Account No. 50-0595. A duplicate copy of this Petition is enclosed for this purpose.

If any outstanding issues remain, however, Appellant urges the Patent Office to telephone Appellant so that the same may be resolved.

  
Respectfully submitted,  
  
(Req. No. 35,018)  
Brian M. Mattson  
Patents+TMS, P.C.  
1914 N. Milwaukee  
Chicago, IL 60647  
(773) 772-6009  
(773) 772-3210 FAX  
ATTORNEY FOR APPELLANT

**APPENDIX**

- Exhibit A: Office Action dated July 18, 2001
- Exhibit B: Appellant's Amendment dated August 23, 2001
- Exhibit C: Final Rejection dated October 30, 2001
- Exhibit D: Appellant's Notice of Appeal dated November 5, 2001
- Exhibit E: Appellant's Appeal Brief dated December 12, 2001
- Exhibit F: Notification of Non-Compliance dated March 6, 2002
- Exhibit G: Appellant's specification and drawings as-filed

CERTIFICATE OF MAILING

I hereby certify that this PETITION TO THE COMMISSIONER, APPENDIX CONTAINING EXHIBITS A-G and CHECK in the amount of \$130.00 are being filed in an envelope addressed to Commissioner for Patents, Washington, D.C. 20231 on April 3, 2002.



A handwritten signature consisting of two stylized initials, "B" and "M", followed by the surname "Mattson".

Brian M. Mattson

**UNITED STATES DEPARTMENT OF COMMERCE****United States Patent and Trademark Office**

Address: COMMISSIONER OF PATENTS AND TRADEMARKS

Washington, D.C. 20231

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/560,067	04/27/00	MATTHEWS	B MAT-P-99-002

09/560,067 04/27/00 MATTHEWS

TM02/0718

PATENTS+TMS  
A PROFESSIONAL CORPORATION  
THIRD FLOOR  
1914 N MILWAUKEE AVENUE  
CHICAGO IL 60647

EXAMINER

O CONNOR, G

ART. UNIT

PAPER NUMBER

2167

DATE MAILED:

07/18/01

Please find below and/or attached an Office communication concerning this application or proceeding.

**Commissioner of Patents and Trademarks****EXHIBIT A**

## Office Action Summary

Application No. 09/560,067	Applicant(s) Mattson
Examiner O'Connor	Art Unit 2167



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE three MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1)  Responsive to communication(s) filed on June 11, 2001 (Election - Paper No. 6)
- 2a)  This action is FINAL.      2b)  This action is non-final.
- 3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

### Disposition of Claims

- 4)  Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above, claim(s) 1-8 and 15-20 is/are withdrawn from consideration.
- 5)  Claim(s) \_\_\_\_\_ is/are allowed.
- 6)  Claim(s) 9-14 is/are rejected.
- 7)  Claim(s) \_\_\_\_\_ is/are objected to.
- 8)  Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9)  The specification is objected to by the Examiner.
- 10)  The drawing(s) filed on April 27, 2000 is/are objected to by the Examiner.
- 11)  The proposed drawing correction filed on \_\_\_\_\_ is: a)  approved b)  disapproved.
- 12)  The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. § 119

- 13)  Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

a)  All b)  Some\* c)  None of:

1.  Certified copies of the priority documents have been received.
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\*See the attached detailed Office action for a list of the certified copies not received.

- 14)  Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

### Attachment(s)

- 15)  Notice of References Cited (PTO-892)
- 16)  Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 17)  Information Disclosure Statement(s) (PTO-1449) Paper No(s). 3
- 18)  Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 19)  Notice of Informal Patent Application (PTO-152)
- 20)  Other: \_\_\_\_\_

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## **DETAILED ACTION**

### ***Election/Restriction***

1. Applicant's election **with** traverse of the invention of Group II, claims 9-14, in Paper № 6 is hereby acknowledged. Because applicant did not distinctly and specifically point out any supposed errors in the restriction requirement, the election has been treated as an election **without** traverse (MPEP § 818.03(a)).
2. The restriction requirement is still deemed proper and is therefore made **FINAL**.
3. Claims 1-8 and 15-20 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a non-elected invention, there being no allowable generic or linking claim. Election was constructively made **without** traverse in Paper № 6.

### ***Requirement for Information***

4. An issue of public use or on sale activity has been raised in this application. In order for the examiner to properly consider patentability of the claimed invention under 35 U.S.C. 102(b), additional information regarding this issue is required as follows:

- I. A description of every device and/or method in use or on sale, or previously in use or on sale, of which applicant is aware, which device(s) and/or method(s) applicant

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believes to be infringing on applicant's invention(s) as disclosed and/or claimed in the instant application.

- II. The earliest dates that each of the devices and/or methods in use or on sale described in accordance with Requirement I were first used or placed on sale, if known by applicant. Otherwise, the dates that each device and/or method first became known to applicant and the earliest date that applicant is aware of each device and/or method having been used and/or placed on sale.
- III. For each of the devices and/or methods in use or on sale described in accordance with Requirement I, a list of the claims of the instant application which applicant believes are being infringed.
- IV. For each of the devices and/or methods in use or on sale described in accordance with Requirement I, any of the following of which applicant is aware: patent(s), inventor(s), assignee(s), and real parties in interest.
- V. For each of the devices and/or methods in use or on sale described in accordance with Requirement I, a statement regarding the interest therein by any inventor(s), assignee(s), or real parties in interest of the instant invention. If none, so state.
- VI. Description of any litigation to which applicant is a party, whether as a plaintiff or a defendant, that relates in any way to intellectual property rights in the field of the invention or any field reasonably considered related thereto.

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5. Applicant is reminded that failure to timely file a fully responsive reply to this requirement for information will result in a holding of abandonment.
6. Applicant is hereby advised that, to the extent that applicant should perceive any part of the requirements set forth hereinabove to be vague and/or ambiguous with respect to the breadth and/or scope thereof, the part in question should be interpreted/construed by applicant in the broadest light and/or most inclusive manner reasonably possible.

*Drawings*

7. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the receiving and storing of the information, the website, the posting of information on the website, and accessing the information via a computer, as well as the computer, must all be shown or the feature(s) cancelled from the claim(s). No new matter should be entered.

*Claim Rejections - 35 USC § 102*

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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9. Claims 9-14 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by CyberDiner Internet Cafe Systems, the posting of restaurant reviews at appropriate websites by patrons of the restaurant being an inherent use of the Internet, as demonstrated by the Blue Ginger webpage at the Boston Globe website.

*Conclusion*

10. The prior art made of record and not relied upon is considered pertinent to the disclosure.

11. Any inquiry concerning this communication, or earlier communications, should be directed to the examiner, Jerry O'Connor, whose telephone number is (703) 305-1525.

GJOC

gjoc

July 12, 2001

*Robert P. Olszewski 7/12/01*

ROBERT P. OLSZEWSKI  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600 Q 100

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

AMENDMENT

APPLICANT: Mattson SERIAL NO.: 09/560,067  
ATTY. DOCKET NO.: MAT-P-99-002 EXAMINER: O'Connor  
FILING DATE: April 27, 2000 GROUP ART: 2167

INVENTION: "A SYSTEM AND METHOD FOR PROVIDING REAL-TIME RESTAURANT REVIEWS"

Asst. Commissioner for Patents  
Washington, D.C. 20231

Sir:

In response to the Office Action dated July 18, 2001, please amend the above-identified application as follows:

IN THE CLAIMS:

Please amend Claim 9 as follows:

9. A method for transmitting real-time information regarding a restaurant by a patron of the restaurant, the method comprising the steps of:

providing a first apparatus having an input means wherein the input means allows entry of the real-time information by the patron of the restaurant; as follows:

inputting the real-time information into the input means of the first apparatus wherein the real-time information includes information regarding the restaurant; and

transmitting the real-time information to a destination remote from the restaurant.

Please amend Claim 10 as follows:

10. The method of Claim 9 further comprising the step of:  
transmitting the real-time information regarding the  
restaurant to a display means to be viewed by a person outside  
of the restaurant.

Please amend Claim 11 as follows:

11. The method of Claim 9 further comprising the steps of:  
providing a network on which the real-time information is  
received and stored; and  
retrieving the information from the network.

Please amend Claim 12 as follows:

12. The method of Claim 9 further comprising the steps of:  
providing a computer network; and  
transmitting the real-time information to the computer  
network.

Please amend Claim 13 as follows:

13. The method of Claim 9 further comprising the steps of:  
providing a website; and  
posting the real-time information to the website.

Please amend Claim 14 as follows:

14. The method of Claim 9 further comprising the step of:  
accessing the real-time information via a computer.

Please add Claim 21 as follows:

21. A method for providing information from a patron  
regarding a restaurant, the system comprising:

providing a wireless device located in the restaurant wherein the wireless device is used by the patron;

inputting information into the wireless device regarding information about the restaurant; and

transmitting the information regarding the restaurant from the wireless device to a destination outside of the restaurant.

Please add Claim 22 as follows:

22. The system of Claim 21 further comprising:

receiving the information regarding the restaurant transmitted by the wireless device on a computer network.

Please add Claim 23 as follows:

23. The system of Claim 21 wherein the wireless device is a cellular telephone.

Please add Claim 24 as follows:

24. The system of Claim 21 wherein the wireless device is a personal digital assistant.

Please add Claim 25 as follows:

25. A method for providing real-time information regarding a restaurant, the method comprising the steps of:

providing a portable apparatus operated by a user wherein the portable apparatus has an input means, a wireless transmission means and a display;

providing a form on the display of the portable apparatus wherein the form includes information that the user implements to enter as the real-time information regarding the restaurant

wherein the real-time information includes features of the restaurant including at least one of food served at the restaurant, service at the restaurant and ambiance of the restaurant;

inputting the real-time information regarding the restaurant into the portable apparatus by the user;

processing the real-time information input by the user; and transmitting the real-time information input by the user to a destination remote from the restaurant.

Please add Claim 26 as follows:

26. The method of Claim 25 wherein the portable wireless apparatus is a cellular telephone.

Please add Claim 27 as follows:

27. The method of Claim 25 wherein the portable wireless apparatus is a personal digital assistant.

Please add Claim 28 as follows:

28. The method of Claim 25 wherein the destination is a website.

Please add Claim 29 as follows:

29. The method of Claim 25 wherein the destination is accessible using a portable wireless device.

REMARKS

This Amendment is submitted in response to the Office Action dated July 18, 2001. In the Office Action, the Patent Office rejected Claims 9-14 under 35 U.S.C. §102(b) as being anticipated by *CyberDiner Internet Café Systems*, as demonstrated by the *Blue Ginger* webpage at the *Boston Globe* website. Additionally, Claims 1-8 and 15-20 were not considered in the Office Action, as being drawn to a non-elected invention. Additionally, the Office Action requested information regarding devices and/or methods infringing Applicant's claims. Finally, the drawings were objected to under 37 CFR §1.83(a) as not showing necessary features of the claimed invention.

By the present Amendment, Applicant submits hereinafter responses to the rejections of Claims 9-14 and to all inquiries set forth in the Office Action. In addition, new Claims 21-29 were added to define further methods of the present invention.

With respect to the inquiry regarding devices and/or methods in use or on sale, or previously in use or on sale, infringing upon Applicant's claims in which Applicant is aware of, Applicant submits the following: To the best of Applicant's knowledge, *AvantGo, Inc.* and *Vindigo, Inc.* (hereinafter "AvantGo" and "Vindigo", respectively) manufacture, produce, and/or sell software that allows a user to input information relating to a restaurant into an apparatus, such as a wireless personal assistant, and submit the information over a computer network, such as the Internet, and allow the information to be viewed by

others. As such, Applicant submits that AvantGo and Vindigo are infringing upon Applicant's claims. Further, Applicant submits that Nextcell, Sony, Microsoft, Casio, Compaq, HandRes.com, Handspring, Hewlett-Packard, IBM, My Docs Online, iDine, OminSky, Palm, Symbol Technologies and Kyocera Wireless also infringe upon Applicant's claims. Each of these companies allow users to download software from AvantGo and/or Vindigo to devices manufactured and/or sold by their companies.

Applicant is unaware of the earliest dates of use/and or sale of any of the above products and/or services. The first use and/or sale Applicant became aware of regarding the infringement of Applicant's claims was by Vindigo on May 8, 2001. All other submitted uses and/or sales were discovered subsequent to this date.

With respect to the claims, Applicant submits that all claims of this application, Claims 1-20, are infringed; however, only Claims 9-14 are currently being examined in this application. The remaining claims were restricted in the Office Action dated July 18, 2001. Independent Claim 9 requires a method for transmitting real-time information regarding a restaurant by a patron of the restaurant. The method has the steps of: providing a first apparatus having an input means wherein the input means allows entry of the real-time information by the patron of the restaurant; inputting the real-time information into the input means of the first apparatus wherein the real-time information includes information regarding the

restaurant; and transmitting the real-time information to a destination remote from the restaurant. Applicant submits that Claim 9 is being infringed by, for example, at least *Palm*.

With respect to dependent Claim 10, this claim further requires transmitting the real-time information regarding the restaurant to a display means to be viewed by a person outside of the restaurant. Applicant submits that dependent Claim 10 is infringed by, for example, at least *Palm, Inc.* *Palm* manufactures, uses and/or sells *Palm* handheld computers, such as handheld models m505, m500, m105, m100, VIIx, IIIx, IIIc, and IIIxe to view restaurant reviews on a display screen through accessing *AvantGo* outside a restaurant and further includes all of the steps defined by independent Claim 9.

Dependent Claim 11 further requires the step of providing a network on which the real-time information is received, stored and retrieved from the network. Applicant submits that dependent Claim 11 is infringed by, for example, at least *Palm*. *Palm* provides a service wherein information can be stored and retrieved from a network, the Internet, and further includes all of the steps defined by independent Claim 9.

Dependent Claim 12 further requires the step of providing a computer network and transmitting the real-time information to the computer network. Applicant submits that dependent Claim 12 is infringed by, for example, at least *Palm*. *Palm* provides access to a computer network wherein information relating to the reviewing of a restaurant is transferred to the computer network

and further includes all of the steps defined by independent Claim 9.

Dependent Claim 13 further requires the step of providing a website on the computer network and posting the real-time information on the website. Applicant submits that dependent Claim 13 is infringed by, for example, at least *AvantGo*. *AvantGo* provides software wherein a website is accessed for reviewing restaurant reviews on a computer network, the Internet, and further includes all of the steps defined by independent Claim 9.

Dependent Claim 14 further requires the step of accessing the real-time information via a computer. Applicant submits that dependent Claim 14 is infringed by, for example, at least *Palm*. *Palm* allows the accessing of information via a computer, for example their handheld assistants, and further includes all of the steps defined by independent Claim 9.

Regarding the description of infringement for all of the above-mentioned claims, Applicant has not described the manner of infringement by all of the companies because such description would be cumulative. Applicant submits that each of the companies noted above provide a device that permits the downloading of software by, for example, at least *AvantGo* and/or *VindiGo* and those devices infringe Claims 9-14 in the same manner as set forth above with respect to *Palm*. Those companies include, but are not necessarily limited to, *Nextcell*, *Sony*, *Microsoft*, *Casio*, *Compaq*, *HandRes.com*, *Handspring*, *Hewlett-*

Packard, IBM, My Docs Online, iDine, OminSky, Symbol Technologies and Kyocera Wireless.

With respect to the parties in interest, Patents+TMS, P.C. is the real party in interest in this application. As inventor, Brian M. Mattson assigned the rights to this application to Patents+TMS, P.C.

Applicant is not a party to any litigation in any way relating to the intellectual property rights of this invention or any field reasonably considered related thereto.

With respect to the rejection of Claims 9-14 under 35 U.S.C. §102(b) as being anticipated by *CyberDiner Internet Café Systems* as demonstrated by the *Blue Ginger* website, Applicant respectfully submits that the claims distinctly define the present invention from that reference.

Applicant's claims require a method for transmitting real-time information regarding a restaurant by a patron of the restaurant. The method comprises the steps of: providing a first apparatus having an input means wherein the input means allows entry of the real-time information by the patron of the restaurant; inputting the real-time information into the input means of the first apparatus wherein the real-time information includes information regarding the restaurant; and transmitting the real-time information to a destination remote from the restaurant. Nothing in *CyberDiner Internet Café Systems* discloses a method for transmitting information regarding a restaurant.

On the contrary, *CyberDiner Internet Café Systems* merely discloses a system wherein *CyberDiner Internet Café Systems* installs Internet access within a business, for example, a restaurant. Nowhere on the *CyberDiner Internet Café System's* website does it disclose a website and system and/or method for transmitting real-time and/or wireless information regarding a restaurant by a patron of the restaurant.

Not until Applicant's invention was a method to provide real-time restaurant reviews ever contemplated. Applicant recognized the need to provide current and/or real-time information regarding a restaurant when creating reviews for the restaurant. This need was identified by Applicant, and Applicant invented a method to effect such reviews based on portable and/or wireless devices that effected the method for providing such a review. Such a method was never contemplated anywhere or taught anywhere prior to Applicant's invention.

Under 35 U.S.C. §102, anticipation requires that a single reference discloses each and every element of Applicant's claimed invention. *Akzo N.V. v. U.S. International Trade Commission*, 808 F.2d 1471, 1479, 1 USPQ 2d. 1241, 1245 (Fed. Cir. 1986). Moreover, anticipation is not shown even if the differences between the claims and the reference are "insubstantial" and one skilled in the art could supply the missing elements. *Structure Rubber Products Co. v. Park Rubber Co.*, 749 F.2d. 707, 716 223 USPO 1264, 1270 (Fed. Cir. 1984).

Since *CyberDiner Internet Café Systems* fails to disclose all

of the elements defined in Claims 9-14, the rejections thereto are improper and should be withdrawn. Notice to that effect is requested.

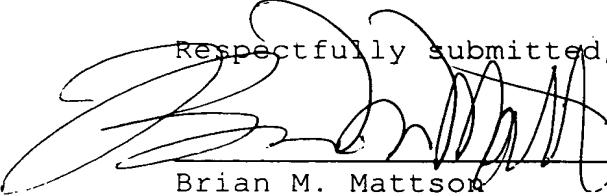
In the Office Action, the Patent Office objected to the drawings under 37 CFR §1.83(a). Specifically, the Patent Office stated "the receiving and storing of information, the website, the posting of information on the website, and the accessing information via computer, as well as the computer, must all be shown or the feature(s) cancelled from the claim(s)."

With respect to this objection, Applicant submits that all of the necessary features in the claimed invention are presently shown in the Figure 1 or in Figure 2. 37 CFR §1.83(a) states "[C]onventional features disclosed in the description and claims, where their detailed illustration is not essential for a proper understanding of the invention, should be illustrated in the drawings in the form of a graphical drawing symbol or a labeled representation (e.g., a labeled rectangular box)." Because a computer is commonly known to store and receive information, a labeled rectangular box is shown in Figure 2 to represent the storing and retrieving of information instead of numerous pages of computer program printouts and/or diagrams. Further, since the information is an intangible item, the storing and retrieving of information can only be displayed using words, not diagrams. Therefore, Applicant submits that the objection to the drawings is improper and should be withdrawn. Notice to that effect is requested.

Claims 10-14 depend from Claim 9. These claims are further believed allowable over the references of record for the same reasons set forth with respect to their parent claims since each sets forth additional structural elements and novel steps of Applicant's novel system and method, respectively.

In view of the foregoing remarks, Applicant submits that all of the claims in the application are in allowable form and that the application is now in condition for allowance. If, however, any outstanding issues remain, Applicant urges the Patent Office to telephone Applicant's attorney so that the same may be resolved and the application expedited to issue. Applicant requests the Patent Office to indicate that all claims are allowable and to pass the application to issue. Notice to that effect is requested.

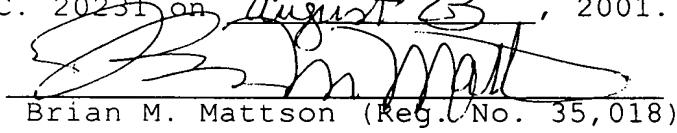
Respectfully submitted,

 Reg. No. 35,018)

Brian M. Mattson  
Patents+TMS  
A Professional Corporation  
1914 North Milwaukee Avenue  
Chicago, Illinois 60647  
Telephone: (773) 772-6009  
Attorney for Applicant

CERTIFICATE OF MAILING

I hereby certify that this **Amendment** is being deposited with the United States Postal Service as First Class Mail in an envelope addressed to: Asst. Commissioner for Patents, Washington, D.C. 20231 on August 23, 2001.



Brian M. Mattson (Reg. No. 35,018)

VERSION WITH MARKINGS TO SHOW CHANGES MADE

IN THE CLAIMS:

Please amend Claim 9 as follows:

9. A method for transmitting real-time information regarding a restaurant by a patron of the restaurant, the method comprising the steps of:

providing a first apparatus [having a transmission means in the restaurant for transmitting information regarding the restaurant] having an input means wherein the input means allows entry of the real-time information by the patron of the restaurant;

inputting the real-time information into the input means of the first apparatus wherein the real-time information includes information regarding the restaurant; and

transmitting the real-time information to a destination remote from the restaurant.

Please amend Claim 10 as follows:

10. The method of Claim 9 further comprising the step of:

transmitting the real-time information regarding the restaurant to a display means to be viewed by a person outside of the restaurant.

Please amend Claim 11 as follows:

11. The method of Claim 9 further comprising the steps of:

providing a network [wherein] on which the real-time information is received and stored; and

retrieving the information from the network.

Please amend Claim 12 as follows:

12. The method of Claim 9 further comprising the steps of:

providing a computer network; and

transmitting the real-time information to the computer network.

Please amend Claim 13 as follows:

13. The method of Claim [12] 9 further comprising the steps of: providing a website [on the computer network]; and posting the real-time information [on] to the website.

Please amend Claim 14 as follows:

14. The method of Claim 9 further comprising the [steps] step of: accessing the real-time information via a computer.

The seal of the Department of Commerce is circular. It features an eagle with its wings spread wide, perched atop a shield. The shield contains a map of the United States. The words "DEPARTMENT OF COMMERCE" are inscribed at the top of the circle, and "UNITED STATES OF AMERICA" are at the bottom.

**UNITED STATES DEPARTMENT OF COMMERCE**  
**United States Patent and Trademark Office**  
Address: **COMMISSIONER OF PATENTS AND TRADEMARKS**  
Washington, D.C. 20231

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/560,067	04/27/00	MATTSON	MAT-P-99-0002

PATENTS ETC.  
A PROFESSIONAL CORPORATION  
THIRD FLOOR  
1914 N MILWAUKEE AVENUE  
CHICAGO IL 60647

TM02/1030	EXAMINER
MC CONNOR, G	
CHART-UNIT	PAPER NUMBER
13-167	
DATE MAILED:	
10/30/01	

Please find below and/or attached an Office communication concerning this application or proceeding.

## **Commissioner of Patents and Trademarks**



## Office Action Summary

Application No. 09/560,067	Applicant(s) Mattson
Examiner O'Connor	Art Unit 2167

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE three MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1)  Responsive to communication(s) filed on August 27, 2001 (Amendment "A")
- 2a)  This action is FINAL.      2b)  This action is non-final.
- 3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

### Disposition of Claims

- 4)  Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above, claim(s) 1-8 and 15-20 is/are withdrawn from consideration.
- 5)  Claim(s) \_\_\_\_\_ is/are allowed.
- 6)  Claim(s) 9-14 and 21-29 is/are rejected.
- 7)  Claim(s) \_\_\_\_\_ is/are objected to.
- 8)  Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9)  The specification is objected to by the Examiner.
- 10)  The drawing(s) filed on April 27, 2000 is/are objected to by the Examiner.
- 11)  The proposed drawing correction filed on \_\_\_\_\_ is: a)  approved b)  disapproved.
- 12)  The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. § 119

- 13)  Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

a)  All b)  Some\* c)  None of:

1.  Certified copies of the priority documents have been received.
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\*See the attached detailed Office action for a list of the certified copies not received.

- 14)  Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

### Attachment(s)

- 15)  Notice of References Cited (PTO-892)      18)  Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 16)  Notice of Draftsperson's Patent Drawing Review (PTO-948)      19)  Notice of Informal Patent Application (PTO-152)
- 17)  Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_      20)  Other: \_\_\_\_\_

Art Unit: 2167

## **DETAILED ACTION**

### ***Preliminary Remarks***

1. This Office action has been prepared in response to the amendment and arguments filed by applicant on August 27, 2001 (Paper N<sup>o</sup> 8), in response to the prior Office action.
  
2. The amendment of claims 9-14 and addition of claims 21-29 are hereby acknowledged.

### ***Election/Restriction***

3. Claims 1-8 and 15-20 stand withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a non-elected invention. Election was made **without** traverse in Paper N<sup>o</sup> 6.

### ***Drawings***

4. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the receiving and storing of the information, the website, the posting of information on the website, and accessing the information via a computer, as well as the computer, the destination remote from the restaurant, the wireless device, the cellular telephone, and the personal digital assistant, must all be shown or the feature(s) cancelled from the claim(s). No new matter should be entered.

Art Unit: 2167

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 9-14 and 21-29 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by CyberDiner Internet Cafe Systems, the posting of restaurant reviews at appropriate websites by patrons of the restaurant being an inherent use of the Internet, as demonstrated by the Blue Ginger webpage at the Boston Globe website.

***Response to Arguments***

7. Applicant's arguments filed August 27, 2001 have been fully considered but they are not persuasive.

8. Regarding the argument that the drawings need not show every feature of the invention specified in the claims, the drawings must indeed show every feature of the invention specified in the claims, as explicitly required by 37 CFR 1.83(a).

9. Regarding applicant's argument that the claims are not anticipated by the *CyberDiner Internet Café Systems* reference because that single reference does not explicitly disclose each

Art Unit: 2167

and every element of applicant's claimed invention, the rejection that was made (and has now been made final) under 35 U.S.C. 102(b) addressed the fact that certain elements of the claims were not explicitly disclosed by *CyberDiner*, by explaining that those elements were inherent in *CyberDiner*, hence necessarily present.

"To serve as an anticipation when the reference is silent about the asserted inherent characteristic, such gap in the reference may be filled with recourse to extrinsic evidence. Such evidence must make clear that the missing descriptive matter is necessarily present in the thing described in the reference, and that it would be so recognized by persons of ordinary skill."

*Continental Can Co. USA v. Monsanto Co.*, 948 F.2d 1264, 1268, 20 USPQ2d 1746, 1749 (Fed. Cir. 1991).

*CyberDiner* discloses a restaurant that provides Internet access to each of its patrons at each of the tables when patrons are served. The access provided by *CyberDiner* is general Internet access to all websites of the Internet. Connection to--hence, ability to use--all such websites is therefore inherently present in the restaurant system of *CyberDiner*, including connection to and use of such restaurant review websites as the Blue Ginger review at the Boston Globe website, boston.com. See MPEP § 2131.01(III)

Art Unit: 2167

***Conclusion***

10. The prior art made of record and not relied upon is considered pertinent to the disclosure.

11. Applicant's amendment necessitated any new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

12. Any inquiry concerning this communication, or earlier communications, should be directed to the examiner, Jerry O'Connor, whose telephone number is (703) 305-1525.

GJOC

*JOC*

October 26, 2001

*Robert P. Olszewski 10/29/01*  
ROBERT P. OLSZEWSKI  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600

NOTICE OF APPEAL FROM THE EXAMINER  
TO THE BOARD OF PATENT APPEALS AND INTERFERENCES

APPLICANT: Mattson GROUP ART UNIT: 2167  
SERIAL NO.: 09/560,067 EXAMINER: O'Connor  
FILING DATE: April 27, 2000 ATTY. DOCKET NO.:MAT-P-99-002  
INVENTION: "A SYSTEM AND METHOD FOR PROVIDING REAL-TIME  
RESTAURANT REVIEWS"

Asst. Commissioner for Patents  
Washington, D.C. 20231

SIR:

Applicant hereby appeals to the Board of Patent Appeals and Interferences from the Final Rejection dated October 30, 2001 of which the Examiner finally rejected Claims 9-14 and 21-29.

Enclosed herewith is a check in the amount of \$160.00, the requisite fee for filing this notice.

Any deficiency or overpayment should be charged or credited to Deposit Account No. 50-0595. *A duplicate of this Notice is enclosed for this purpose.*

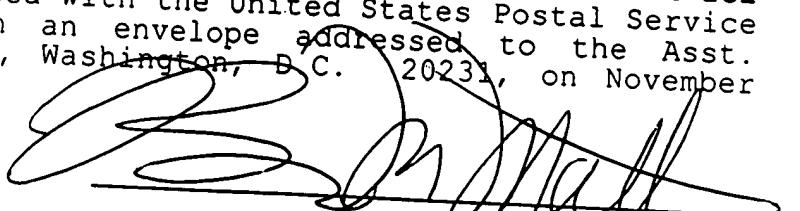
Respectfully submitted,

  
Brian M. Mattson (Reg. No. 35,018)  
PATENTS+TMS  
A Professional Corporation  
1914 N. Milwaukee Avenue  
3rd Floor  
Chicago, Illinois 60647  
ATTORNEY FOR APPLICANT

CERTIFICATE OF MAILING

I hereby certify that this NOTICE OF APPEAL and a check for \$160.00 are being deposited with the United States Postal Service as First Class Mail in an envelope addressed to the Asst. Commissioner for Patents, Washington, D.C. 20231, on November 5, 2001.

EXHIBIT D

  
Brian M. Mattson (Reg. No. 35,018)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

APPELLANT: Mattson

GROUP ART UNIT: 2167

SERIAL NO.: 09/560,067

EXAMINER: O'Connor

FILING DATE: April 27, 2000

ATTY. DOCKET NO.:MAT-P-99-002

INVENTION: "A SYSTEM AND METHOD FOR PROVIDING REAL-TIME RESTAURANT REVIEWS"

Asst. Commissioner for Patents  
Washington, D.C. 20231

**APPELLANT'S APPEAL BRIEF**

SIR:

This Appeal Brief is submitted in support of the Notice of Appeal mailed on November 5, 2001. The Appeal was taken from the Final Rejection dated October 30, 2001.

**I. REAL PARTY IN INTEREST**

Patents+TMS, P.C. is the real party in interest in this Appeal. An Assignment has been filed and recorded in the U.S. Patent Office regarding ownership interest of this application.

**II. RELATED APPEALS AND INTERFERENCES**

No other appeals or interferences are known to Appellant or Appellant's legal representative which will directly affect, be directly affected by, or have a bearing on the Board's decision in this appeal.

### **III. STATUS OF CLAIMS**

Claims 1-29 are pending in this patent application, of which Claims 1-8 and 15-20 were withdrawn from consideration. A copy of the claims is appended hereto as the Appendix. The Final Rejection is appended hereto as Exhibit A of the Supplemental Appendix.

### **IV. STATUS OF AMENDMENTS**

All amendments have been entered in this patent application. No amendments to the claims were made after the Final Rejection.

### **V. SUMMARY OF INVENTION**

The present invention generally relates to a method for providing a real-time review of a restaurant. In addition, the present invention provides a method for providing reviews of restaurants and for providing this information to potential patrons 14 outside the restaurant in real-time. (Page 6, lines 30-34 and Page 7, lines 1 and 2)

Referring now to Figures 1 and 2, the invention defines a method wherein a patron 14 of a restaurant transmits information about a restaurant to a computer network, such as, for example, the Internet. An apparatus 16 is provided which may contain a processing unit 52 for entering real-time information regarding a restaurant. The real-time information is then transmitted to a destination remote from the restaurant. (Page 7, lines 20-28)

Alternatively, the apparatus 16 may be a portable device that allows a restaurant patron to input a restaurant review thereinto and posts the information in real-time on the computer network. The apparatus 16 may be, for example, a cellular phone or personal digital assistant having access to the Internet or may be any other like device apparent to those skilled in the art. (Page 8, lines 3-9)

Appellant's invention provides a method for providing information from a patron 14 regarding a restaurant. The method provides a wireless device located in the restaurant wherein the wireless device is used by the patron 14 to input information regarding the restaurant and to transmit the information to a destination outside of the restaurant. (Page 8, lines 6-11)

Providing review information in real-time may allow a potential patron the ability to determine specific characteristics of a plurality of restaurants to determine which restaurant the potential patron may wish to patronize. Further, the potential patron may receive a plurality of reviews from a plurality of restaurant patrons that are in the same restaurant to obtain a survey of the restaurant from a plurality of points of view. (Page 9, lines 1-8)

Figure 2 shows a black box diagram illustrating a processing unit 52, an input means 54, a display means 56 and a

transmission means 58. The patron 14 may use the input means 54 to input specific information about the restaurant into the processing unit 52. The patron 14 may use the display means 56 to review what the patron 14 inputs into the processing unit 52. After the patron 14 has input information concerning the particular restaurant 1 into the processing unit 52 via the input means 54, the patron 14 may send the information via the transmission means 58 to a network 60. The network 60 may be any type of information network, such as, for example, the Internet. (Page 9, lines 12-25)

Connected to the network 60 may be a display means 62 such as, for example, a computer display monitor or any other like display means capable of displaying information thereon. A user may use the display means 62 to view the information posted on the network 60 by the patron 14. Viewing the information posted on the network may be accomplished while the patron 14 is dining at the restaurant. The user may then receive real-time information about the restaurant. The user may then decide whether he wishes to patronize that restaurant or may use the information for any reason that may be apparent to those skilled in the art. (Page 9, lines 26-33 and Page 10, lines 1-4)

Further, a portable display means 64 may be connected to the network 60 via a portable connecting wire or a radio

transmission means via an antenna. For example, the portable display means may be a telephone having a screen thereon whereupon the user may show information posted by the patron 14 in the restaurant. (Page 10, lines 5-10)

#### **VI. ISSUE**

1. Would Claims 9-14 and 21-29 have been anticipated by *CyberDiner Internet Café Systems* (hereinafter *CyberDiner*) under 35 U.S.C. §102(b)?
2. Are the drawings improper under 37 CFR §1.83(a) for failing to show every feature of the invention specified in the claims?

#### **VII. GROUPING OF CLAIMS**

Appellant argues for the patentability of independent Claims 9, 21 and 25 separately and apart from one another. In addition, Appellant argues for the patentability of dependent Claims 10-14, 22-24 and 26-29 separately and apart from the independent claims from which they depend.

#### **VIII. ARGUMENT**

##### **A. THE CITED REFERENCES AND REJECTIONS OF CLAIMS 9-14 AND 21-29**

Independent Claims 9, 21 and 25, and dependent Claims 10-14, 22-24 and 26-29 stand rejected under 35 U.S.C. §102(b) as being anticipated by *CyberDiner*.

In the Final Rejection, the Patent Office stated:

Claims 9-14 and 21-29 are rejected under 35 U.S.C. §102(b) as being clearly anticipated by CyberDiner Internet Café Systems, the posting of restaurant reviews at appropriate websites by patrons of the restaurant being an inherent use of the Internet, as demonstrated by the Blue Ginger webpage at the Boston Globe website.

(See Final Rejection, Page 3, lines 6-9 of Exhibit A of the Supplemental Appendix.)

Further, in the Final Rejection, the Patent Office stated:

CyberDiner discloses a restaurant that provides Internet access to each of its patrons at each of the tables when patrons are served. The access provided by CyberDiner is general Internet access to all websites on the Internet. Connection to-hence, ability to use-all such websites is therefore inherently present in the restaurant system of CyberDiner, including connection to and use of such restaurant review websites as the Blue Ginger review at the Boston Globe website, boston.com.

(See Final Rejection, Page 4, lines 11-16 of Exhibit A of the Supplemental Appendix.)

**B. CyberDiner DOES NOT ANTICIPATE CLAIMS 9-14 AND 21-29 UNDER 35 U.S.C. §102(b)**

With respect to the rejection of Claims 9-14 and 21-29 under 35 U.S.C. §102(b) as being anticipated by CyberDiner, Appellant respectfully submits that the claims distinctly define the present invention from CyberDiner for the reasons that follow.

As previously set forth, independent Claim 9 defines a

method for transmitting real-time information regarding a restaurant by a patron of the restaurant. The method has the steps of: providing a first apparatus having an input means wherein the input means allows entry of the real-time information by the patron of the restaurant. Further, the method requires inputting of the real-time information into the input means of the first apparatus wherein the real-time information regarding the restaurant is then transmitted to a destination remote from the restaurant.

*CyberDiner* merely discloses a system wherein Internet access is installed within a business, for example, a restaurant. More specifically, *CyberDiner* is a system designed to enable a patron of a store to explore the Internet without the store providing technical support to the patron. Thus, *CyberDiner* merely acts as an installation, maintenance and technical support company that provides Internet access to patrons of businesses.

*CyberDiner* teaches training to the staff of the business where the Internet access is installed. Further, *CyberDiner* provides on-line help to patrons of the business. Still further, *CyberDiner* provides electronic mail boxes to every *CyberDiner* user. Therefore, *CyberDiner* merely allows an expert or a novice to access the Internet from within a business.

Nowhere in *CyberDiner* is disclosed a method for transmitting

real-time information regarding a restaurant by a patron of the restaurant. The method requires providing a first apparatus having an input means wherein the input means allows entry of the real-time information by the patron of the restaurant. Further, *CyberDiner* does not teach inputting of the real-time information into the input means of the first apparatus wherein the real-time information regarding the restaurant is then transmitted to a destination remote from the restaurant.

Not until Appellant's invention was a method to provide real-time restaurant reviews ever contemplated. Appellant recognized the need to provide current and/or real-time information regarding a restaurant when creating reviews for the restaurant. This need was first identified by Appellant, and Appellant's claimed invention defines a method to effect such reviews. Such a method was never contemplated anywhere or taught anywhere prior to Appellant's invention.

Under 35 U.S.C. §102(b), anticipation requires that a single reference discloses each and every step of Appellant's claimed invention. *Azko N.V. v. U.S. International Trade Commission*, 808 F.2d 1471, 1479, 1 USPQ 2d 1241, 1245 (Fed. Cir. 1986).

Moreover, anticipation is not shown even if the differences between the claims and the reference are "insubstantial" and one skilled in the art could supply the missing steps. *Structure*

*Rubber Products Co. v. Park Rubber Co.*, 749 F.2d. 707, 716, 223 USPQ 1264, 1270 (Fed. Cir. 1984). Since *CyberDiner* does not disclose the steps defined in independent Claim 9, Appellant submits that the rejection of independent Claim 9 under 35 U.S.C. §102(b) is improper and should be withdrawn. Notice to that effect is requested.

Namely, *CyberDiner* fails to even remotely teach or suggest the input of real-time information regarding a restaurant by a patron of the restaurant. The real-time information is required to include information regarding the restaurant. Nothing in *CyberDiner* teaches or even remotely suggests the input of real-time information regarding the restaurant. In fact, *CyberDiner* only indicates that a patron can both send and receive e-mail messages. Absolutely no suggestion is provided by *CyberDiner* that the information is real-time information regarding the restaurant as required by Claim 9.

Dependent Claim 10 of the present invention requires transmitting the real-time information regarding the restaurant to a display means to be viewed by a patron outside of the restaurant. Nowhere in *CyberDiner* is taught or suggested a method for transmitting real-time information regarding a restaurant, with the steps of independent Claim 9, further including the step of transmitting the real-time information

regarding the restaurant to a display means to be viewed by a patron outside of the restaurant.

Transmitting the real-time information regarding the restaurant to a display means to be viewed by a patron outside of the restaurant is an important distinction and requirement of Appellant's invention because this feature allows a user to view the real-time information regarding the restaurant before deciding on whether to patronize the restaurant. For example, a user may view the real-time information of any number of restaurants before deciding at which restaurant to dine. This feature allows a user to make a decision regarding a restaurant based on real-time information regarding the restaurant.

Dependent Claim 11 of the present invention requires providing a network on which the real-time information is received and stored and further requires the step of retrieving the information from the network. Nowhere in *CyberDiner* is taught or suggested the method of Claim 9 further including providing a network on which the real-time information is received and stored and requiring the retrieval of the information from the network.

Providing a network on which the real-time information is received and stored and further requiring the step of retrieving the information from the network are important distinctions of

Appellant's invention because a network provides a central "location" wherein users may store and/or retrieve the real-time information regarding the restaurant.

Dependent Claim 12 of the present invention requires providing a computer network and transmitting the real-time information to the computer network. Nowhere in *CyberDiner* is taught or suggested the method of Claim 9 further including the steps of providing a computer network and transmitting the real-time information to the computer network.

Providing a computer network and transmitting the real-time information to the computer network are important distinctions of Appellant's invention because the computer network processes the real-time information. Additionally, the information must be capable of access in real-time because the real-time information regarding the restaurant may continuously change. For example, the particular staff cooking or serving the food on a particular day, the freshness of the food, the specials of the day or the wait required for service may be input by a patron, and that real-time information regarding the restaurant may be transmitted to a computer network.

Dependent Claim 13 of the present invention requires providing a website and posting the real-time information on the website. Nowhere in *CyberDiner* is taught or suggested the

method of Claim 9 further including the steps of providing a website and posting the real-time information on the website.

Providing a website and posting the real-time information on the website are important distinctions of Appellant's invention because these features allow instant access to the real-time information regarding the restaurant immediately after the review is posted on the website.

Dependent Claim 14 of the present invention requires accessing the real-time information via a computer. Nowhere in *CyberDiner* is taught or suggested the method of Claim 9 further including the step of accessing the real-time information regarding the restaurant via a computer.

Because *CyberDiner* does not disclose the steps of Appellant's invention defined in dependent Claims 10-14, the rejection under 35 U.S.C. §102(b) is improper and should be withdrawn. Notice to that effect is requested.

Independent Claim 21 defines a method for providing information from a patron regarding a restaurant. The method requires providing a wireless device located in the restaurant wherein the wireless device is used by the patron. The method further requires providing for the input of information into the wireless device and transmitting the information from the wireless device to a destination outside of the restaurant.

Again, *CyberDiner* merely discloses a system wherein Internet access is installed within a business, for example, a restaurant. More specifically, *CyberDiner* is a system designed to enable a patron of a store to explore the Internet without the store providing technical support to the patron. Thus, *CyberDiner* merely acts as an installation, maintenance and technical support company that provides Internet access to patrons of businesses.

*CyberDiner* teaches training to the staff of the business at which Internet access is installed. Further, *CyberDiner* provides on-line help to patrons of the business. Still further, *CyberDiner* provides electronic mail boxes to *CyberDiner* users. Therefore, *CyberDiner* merely allows an individual to access the Internet from within a business.

In fact, *CyberDiner* teaches away from Appellant's invention. *CyberDiner* specifically states that the computer must be plugged in. Specifically, *CyberDiner* states "For instillation all you need is a place to put it and a place to plug it in." Therefore, *CyberDiner* teaches away from a wireless device used to input information regarding a restaurant as required by Claim 21 of Appellant's invention. (Page 1, line 5 and Page 6, lines 14 and 15 of Exhibit B)

Further, *CyberDiner* fails to even remotely teach or suggest the input of information regarding a restaurant into a device by a patron of the restaurant. Nothing in *CyberDiner* teaches or even remotely suggests the input of information regarding a restaurant into a device. In fact, *CyberDiner* only indicates that a patron can both send and receive e-mail messages. Absolutely no suggestion is provided by *CyberDiner* that the information obtained via *CyberDiner* is information regarding a restaurant as required by Claim 21.

Nowhere in *CyberDiner* is disclosed a method for providing information from a patron regarding a restaurant wherein a wireless device located in the restaurant is provided and wherein the wireless device is used by the patron to input information regarding the restaurant and wherein the wireless device is used to transmit the information to a destination outside of the restaurant.

Not until Appellant's invention was a method to provide real-time restaurant reviews ever contemplated. Appellant recognized the need to provide current and/or real-time information regarding a restaurant when creating reviews for the restaurant. This need was identified by Appellant, and Appellant invented a method to effect such reviews based on portable and/or wireless devices that effected the method for

providing such a review. Such a method was never contemplated anywhere or taught anywhere prior to Appellant's invention.

Under 35 U.S.C. §102(b), anticipation requires that a single reference discloses each and every step of Appellant's claimed invention. *Azko N.V. v. U.S. International Trade Commission*, 808 F.2d 1471, 1479, 1 USPQ 2d 1241, 1245 (Fed. Cir. 1986).

Moreover, anticipation is not shown even if the differences between the claims and the reference are "insubstantial" and one skilled in the art could supply the missing steps. *Structure Rubber Products Co. v. Park Rubber Co.*, 749 F.2d. 707, 716, 223 USPQ 1264, 1270 (Fed. Cir. 1984). Once again, *CyberDiner* fails to even remotely teach or suggest the input of information regarding a restaurant into a device by a patron of the restaurant and fails to teach or suggest a wireless device used to accomplish the same. Since *CyberDiner* does not disclose the steps defined in independent Claim 21, Appellant submits that the rejection of independent Claim 21 under 35 U.S.C. §102(b) is improper and should be withdrawn. Notice to that effect is requested.

Dependent Claim 22 of the present invention requires receiving the information regarding the restaurant transmitted by the wireless device on a computer network. Nowhere in *CyberDiner* is taught or suggested the method of Claim 21 further

requiring receiving the information regarding the restaurant transmitted by the wireless device on a computer network.

Receiving the information regarding the restaurant transmitted by a wireless device on a computer network is an important distinction of Appellant's invention because a computer network may process a large amount of information. Therefore, the computer network may process multiple inputs of real-time information regarding the restaurant submitted, for example, from the same restaurant to numerous different users for evaluation.

Dependent Claim 23 of the present invention requires the wireless device to be a cellular telephone. Nowhere in *CyberDiner* is taught or suggested the method of Claim 21 further requiring the wireless device to be a cellular telephone.

Requiring the wireless device to be a cellular telephone is an important distinction of Appellant's invention because cellular telephones are portable devices that enable input of real-time information regarding the restaurant for subsequent transmission to a destination remote from the restaurant.

Dependent Claim 24 of the present invention requires the wireless device to be a personal digital assistant. Nowhere in *CyberDiner* is taught or suggested the method of Claim 21 further requiring the wireless device to be a personal digital

assistant.

Requiring the wireless device to be a personal digital assistant is an important distinction of Appellant's invention because personal digital assistants are often carried by individuals and are often used by individuals to organize information, such as dinner plans. Therefore, a wireless personal digital assistant is both portable and capable of receiving information regarding a restaurant to aid the user in, for example, selecting a restaurant based on real-time information regarding the restaurant.

Because *CyberDiner* does not disclose the steps of Appellant's dependent Claims 22-24, the rejection under 35 U.S.C. §102(b) is improper and should be withdrawn. Notice to that effect is requested.

Independent Claim 25 defines a method for providing real-time information regarding a restaurant. The method requires providing a portable apparatus operated by a user wherein the portable apparatus has an input means, a wireless transmission means and a display. The method further requires providing a form on the display of the portable apparatus wherein the form includes information that the user implements to enter as the real-time information regarding the restaurant. Further, the method requires providing that the real-time information

includes features of the restaurant including at least one of food served at the restaurant, service at the restaurant and ambiance of the restaurant. The real-time information is then input into the portable apparatus by the user and processed. The real-time information is then transmitted to a destination remote from the restaurant.

Again, *CyberDiner* merely discloses a system wherein Internet access is installed within a business, for example, a restaurant. More specifically, *CyberDiner* is a system designed to enable a patron of a store to explore the Internet without the store providing technical support to the patron. Thus, *CyberDiner* merely acts as an installation, maintenance and technical support company that provides Internet access to patrons of businesses.

Again, *CyberDiner* merely teaches training to the staff of the business at which Internet access is installed. Further, *CyberDiner* provides on-line help to patrons of the business. Still further, *CyberDiner* provides electronic mail boxes to every *CyberDiner* user. Therefore, *CyberDiner* merely allows an individual to access the Internet from within a business.

In fact, *CyberDiner* teaches away from Appellant's invention. *CyberDiner* specifically states that the computer must be plugged in. Specifically, *CyberDiner* states "For instillation all you

need is a place to put it and a place to plug it in." Therefore, *CyberDiner* teaches away from a wireless device used to input information regarding a restaurant as required by Claim 25 of Appellant's invention. (Page 1, line 5 and Page 6, lines 14 and 15 of Exhibit B)

Nothing in *CyberDiner* discloses a method which provides a portable apparatus operated by a user wherein the portable apparatus has an input means, a wireless transmission means and a display. Further, *CyberDiner* does not disclose providing a form on the display of the portable apparatus wherein the form includes information that the user implements to enter as the real-time information regarding the restaurant. Still further, *CyberDiner* does not disclose a method wherein real-time information includes features of the restaurant including at least one of food served at the restaurant, service at the restaurant and ambiance of the restaurant. Additionally, *CyberDiner* does not disclose real-time information being input into the portable apparatus by the user and processed. Finally, *CyberDiner* does not disclose real-time information being transmitted to a destination remote from the restaurant.

Not until Appellant's invention was a method to provide real-time restaurant reviews ever contemplated. Appellant recognized the need to provide real-time information regarding

a restaurant when creating reviews for the restaurant. This need was identified by Appellant, and Appellant invented a method to effect such reviews based on portable and/or wireless devices that effected the method for providing such a review. Such a method was never contemplated anywhere or taught anywhere prior to Appellant's invention.

Under 35 U.S.C. §102(b), anticipation requires that a single reference discloses each and every step of Appellant's claimed invention. *Azko N.V. v. U.S. International Trade Commission*, 808 F.2d 1471, 1479, 1 USPQ 2d 1241, 1245 (Fed. Cir. 1986).

Moreover, anticipation is not shown even if the differences between the claims and the reference are "insubstantial" and one skilled in the art could supply the missing steps. *Structure Rubber Products Co. v. Park Rubber Co.*, 749 F.2d. 707, 716, 223 USPQ 1264, 1270 (Fed. Cir. 1984). Again, *CyberDiner* does not teach or suggest a portable apparatus used to transmit information regarding a restaurant and fails to teach or suggest a wireless device used to accomplish the same. Since *CyberDiner* does not disclose the steps defined in independent Claim 25, Appellant submits that the rejection of independent Claim 25 under 35 U.S.C. §102(b) is improper and should be withdrawn. Notice to that effect is requested.

Dependent Claim 26 of the present invention requires the

portable wireless apparatus to be a cellular telephone. Nowhere in *CyberDiner* is taught or suggested the method of Claim 25 further requiring the portable wireless apparatus to be a cellular telephone.

Requiring the portable wireless apparatus to be a cellular telephone is an important distinction of Appellant's invention because cellular telephones are portable devices that simplify the input of real-time information regarding the restaurant for subsequent transmission to a destination remote from the restaurant.

Dependent Claim 27 of the present invention requires the portable wireless apparatus to be a personal digital assistant. Nowhere in *CyberDiner* is taught or suggested the method of Claim 25 further requiring the portable wireless apparatus to be a personal digital assistant.

Requiring the portable wireless apparatus to be a personal digital assistant is an important distinction of Appellant's invention because personal digital assistants are portable devices carried by individuals and may be used by individuals to organize information, such as dinner plans. Therefore, a portable wireless personal digital assistant capable of receiving information regarding a restaurant aids the user in receiving and/or transmitting real-time information to enable,

for example, the selection of a restaurant.

Dependent Claim 28 of the present invention requires the destination remote from the restaurant to be a website. Nowhere in *CyberDiner* is taught or suggested the method of Claim 25 further requiring the destination remote from the restaurant to be a website.

Requiring the destination remote from the restaurant to be a website is an important distinction of Appellant's invention because a website allows instant access to the real-time information regarding the restaurant immediately after the information is posted on the website.

Dependent Claim 29 of the present invention requires the destination remote from the restaurant to be accessible using a portable wireless device. Nowhere in *CyberDiner* is taught or suggested the method of Claim 25 further requiring the destination remote from the restaurant to be accessible using a portable wireless device.

Requiring the destination remote from the restaurant to be accessible using a portable wireless device is an important distinction of Appellant's invention because a user may access information regarding, for example, a plurality of restaurants at various locations using a portable wireless device.

Because *CyberDiner* does not disclose the steps of

Appellant's dependent Claims 26-29, the rejection under 35 U.S.C. §102(b) is improper and should be withdrawn. Notice to that effect is requested.

**C. THE CITED REFERENCES AND OBJECTIONS  
OF THE DRAWINGS**

The drawings in Appellant's application stand objected to under 37 CFR §1.83(a).

In the Final Rejection, the Patent Office stated:

The drawings are objected to under 37 CFR §1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the receiving and storing of the information, the website, the posting of information on the website, and accessing the information via a computer, as well as the computer, the destination remote from the restaurant, the wireless device, the cellular telephone, and the personal assistant, must all be shown or the feature(s) cancelled from the claims(s). No new matter should be entered.

(See Final Rejection, Page 2, lines 6-11 of Exhibit A of the Supplemental Appendix.)

**D. THE DRAWINGS WERE IMPROPERLY OBJECTED  
TO BY THE PATENT OFFICE**

With respect to the objection of the drawings under 37 CFR §1.83(a), Appellant respectfully submits that all of the features in the claimed invention are shown in either Figure 1

or in Figure 2. 37 CFR §1.83(a) states: "[C]onventional features disclosed in the description and claims, where their detailed illustration is not essential for a proper understanding of the invention, should be illustrated in the drawings in the form of a graphical drawing symbol or a labeled representation (e.g., a labeled rectangular box)." (Emphasis added.)

Because a computer is commonly known to store, receive and access information, a labeled rectangular box is shown in Figure 2 to represent the storing, retrieving and accessing of information instead of numerous pages of computer program functions and/or diagrams to illustrate the same. Further, since the information is an intangible item, the storing and retrieving of information can only be displayed using words, not diagrams, and is clearly set forth in Appellant's specification with reference to Figures 1 and 2.

Again, 37 CFR §1.83(a) states: "[C]onventional features disclosed in the description and claims, where their detailed illustration is not essential for a proper understanding of the invention, should be illustrated in the drawings in the form of a graphical drawing symbol or a labeled representation (e.g., a labeled rectangular box)." Because websites are intangible and only capable of being represented in the abstract, Figure 2

shows a rectangular box representing a network, for example, a network having a website. Additionally, Figure 2 shows a rectangular box representing "input means" and a "processing unit" which may be implemented to post the information on the website.

Figure 2 shows a "portable display means" capable of use by a user in a destination remote from the restaurant. Additionally, the "portable display means" is used to represent any portable display means for sending, receiving and/or accessing the information. These portable display means may be any wireless device, such as a cellular telephone or a personal digital assistant, as set forth in the specification.

Because all of the features claimed in the invention are either shown in Figure 1 or are intangible and, therefore, represented by the black box diagram in Figure 2, Appellant submits that the objection to the drawings is improper and should be withdrawn. Notice to that effect is requested.

#### **IX. CONCLUSION**

For the foregoing reasons, Appellant respectfully submits that the rejection of Claims 9-14 and 21-29 is erroneous as a matter of law and fact and respectfully requests the Board to reverse the rejection. Additionally, Appellant respectfully submits that the objection to the drawings is erroneous as a

atter of law and fact and respectfully requests the Board to reverse the objection.

Respectfully submitted,



Brian M. Mattson (Reg. No. 35,018)

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Appellant and Attorney for Appellant  
Patents+TMS  
A Professional Corporation  
1914 North Milwaukee Avenue  
Chicago, IL 60647

X. TABLE OF CONTENTS

- 1) APPENDIX: Claims 9-14 and 21-29
- 2) SUPPLEMENTAL APPENDIX

EXHIBIT A: Final Rejection dated October 30, 2001

EXHIBIT B: *CyberDiner Internet Café Systems* publication

EXHIBIT C: *Blue Ginger* publication

## APPENDIX

9. A method for transmitting real-time information regarding a restaurant by a patron of the restaurant, the method comprising the steps of:

providing a first apparatus having an input means wherein the input means allows entry of the real-time information by the patron of the restaurant;

inputting the real-time information into the input means of the first apparatus wherein the real-time information includes information regarding the restaurant; and

transmitting the real-time information to a destination remote from the restaurant.

10. The method of Claim 9 further comprising the step of:

transmitting the real-time information regarding the restaurant to a display means to be viewed by a person outside of the restaurant.

11. The method of Claim 9 further comprising the steps of:

providing a network on which the real-time information is received and stored; and

retrieving the information from the network.

12. The method of Claim 9 further comprising the steps of:

- providing a computer network; and  
transmitting the real-time information to the computer network.
13. The method of Claim 9 further comprising the steps of:  
providing a website; and  
posting the real-time information to the website.
14. The method of Claim 9 further comprising the step of:  
accessing the real-time information via a computer.
21. A method for providing information from a patron regarding a restaurant, the system comprising:  
providing a wireless device located in the restaurant wherein the wireless device is used by the patron;  
inputting information into the wireless device regarding information about the restaurant; and  
transmitting the information regarding the restaurant from the wireless device to a destination outside of the restaurant.
22. The system of Claim 21 further comprising:  
receiving the information regarding the restaurant transmitted by the wireless device on a computer network.
23. The system of Claim 21 wherein the wireless device is a cellular telephone.
24. The system of Claim 21 wherein the wireless device is a personal digital assistant.
25. A method for providing real-time information regarding a

restaurant, the method comprising the steps of:

providing a portable apparatus operated by a user wherein the portable apparatus has an input means, a wireless transmission means and a display;

providing a form on the display of the portable apparatus wherein the form includes information that the user implements to enter as the real-time information regarding the restaurant wherein the real-time information includes features of the restaurant including at least one of food served at the restaurant, service at the restaurant and ambiance of the restaurant;

inputting the real-time information regarding the restaurant into the portable apparatus by the user;

processing the real-time information input by the user; and transmitting the real-time information input by the user to a destination remote from the restaurant.

26. The method of Claim 25 wherein the portable wireless apparatus is a cellular telephone.

27. The method of Claim 25 wherein the portable wireless apparatus is a personal digital assistant.

28. The method of Claim 25 wherein the destination is a website.

29. The method of Claim 25 wherein the destination is accessible using a portable wireless device.

U.S. COMMISSIONER FOR PATENTS  
WASHINGTON, D.C. 20231

ON BEHALF OF APPLICANT:

MATTSON

U.S. Serial No.:09/560,067

ATTY DOCKET NO.:MAT-P-99-00



ENCLOSED:

1. Appellant's Appeal Brief (in triplicate)
2. Appellant's Appeal Brief transmittal (in duplicate)
3. Check for \$160.00
4. Appendix
5. Exhibit A, B and C

MAILED ON: December 12, 2001  
*Via First Class U.S. Mail*



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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/560,067	04/27/2000	Brian M. Mattson	MAT-P-99-002	2478

7590 03/06/2002

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EXAMINER

O CONNOR, GERALD J

ART UNIT

PAPER NUMBER

2167

DATE MAILED: 03/06/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

**EXHIBIT F**

**Attachment for PTO-948 (Rev. 03/01, or earlier)**  
**6/18/01**

**The below text replaces the pre-printed text under the heading, "Information on How to Effect Drawing Changes," on the back of the PTO-948 (Rev. 03/01, or earlier) form.**

**INFORMATION ON HOW TO EFFECT DRAWING CHANGES**

**1. Correction of Informalities -- 37 CFR 1.85**

New corrected drawings must be filed with the changes incorporated therein. Identifying indicia, if provided, should include the title of the invention, inventor's name, and application number, or docket number (if any) if an application number has not been assigned to the application. If this information is provided, it must be placed on the front of each sheet and centered within the top margin. If corrected drawings are required in a Notice of Allowability (PTOL-37), the new drawings **MUST** be filed within the **THREE MONTH** shortened statutory period set for reply in the Notice of Allowability. Extensions of time may NOT be obtained under the provisions of 37 CFR 1.136(a) or (b) for filing the corrected drawings after the mailing of a Notice of Allowability. The drawings should be filed as a separate paper with a transmittal letter addressed to the Official Draftsperson.

**2. Corrections other than Informalities Noted by Draftsperson on form PTO-948.**

All changes to the drawings, other than informalities noted by the Draftsperson, **MUST** be made in the same manner as above except that, normally, a highlighted (preferably red ink) sketch of the changes to be incorporated into the new drawings **MUST** be approved by the examiner before the application will be allowed. No changes will be permitted to be made, other than correction of informalities, unless the examiner has approved the proposed changes.

**Timing of Corrections**

Applicant is required to submit the drawing corrections within the time period set in the attached Office communication. See 37 CFR 1.85(a).

Failure to take corrective action within the set period will result in **ABANDONMENT** of the application.

<b>Notification of Non-Compliance with 37 CFR 1.192(c)</b>	Application No. <b>09/560,067</b>	Applicant(s) <b>Mattson</b>
	Examiner <b>O'Connor</b> 	Art Unit <b>2167</b>

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

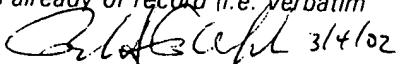
The Appeal Brief filed on Dec 26, 2001 is defective for failure to comply with one or more provisions of 37 CFR 1.192(c). See MPEP § 1206.

To avoid dismissal of the appeal, applicant must file IN TRIPPLICATE a complete new brief in compliance with 37 CFR 1.192(c) within the longest of any of the following three TIME PERIODS: (1) ONE MONTH or THIRTY DAYS from the mailing date of this Notification, whichever is longer; (2) TWO MONTHS from the date of the notice of appeal; or (3) within the period for reply to the action from which this appeal was taken. EXTENSIONS OF THESE TIME PERIODS MAY BE GRANTED UNDER 37 CFR 1.136.

1.  The brief does not contain the items required under 37 CFR 1.192(c), or the items are not under the proper heading or in the proper order.
2.  The brief does not contain a statement of the status of all claims, pending or cancelled, or does not identify the appealed claims (37 CFR 1.192(c)(3)).
3.  At least one amendment has been filed subsequent to the final rejection, and the brief does not contain a statement of the status of each such amendment (37 CFR 1.192(c)(4)).
4.  The brief does not contain a concise explanation of the claimed invention, referring to the specification by page and line number and to the drawing, if any, by reference characters (37 CFR 1.192(c)(5)).
5.  The brief does not contain a concise statement of the issues presented for review (37 CFR 1.192(c)(6)).
6.  A single ground of rejection has been applied to two or more claims in this application, and
  - (a)  the brief omits the statement required by 37 CFR 1.192(c)(7) that one or more claims do not stand or fall together, yet presents arguments in support thereof in the argument section of the brief.
  - (b)  the brief includes the statement required by 37 CFR 1.192(c)(7) that one or more claims do not stand or fall together, yet does not present arguments in support thereof in the argument section of the brief.
7.  The brief does not present an argument under a separate heading for each issue on appeal (37 CFR 1.192(c)(8)).
8.  The brief does not contain a correct copy of the appealed claims as an appendix thereto (37 CFR 1.192(c)(9)).
9.  Other (including any explanation in support of the above items):

*37 CFR 1.83(a) requires that the drawings must show every feature of the invention specified in the claims. The requirement of the examiner to either modify the drawings so as to show all claimed features (without adding new matter), or else cancel from the claims the features not shown in the drawings, must be complied with before the appeal can proceed. This requirement of the examiner was reviewable by petition within two months (non-extendable) of being reconsidered and sustained (made final) by the examiner on October 30, 2001, but this requirement is NOT reviewable by appeal. See 37 CFR 1.191(c), 37 CFR 1.181, and MPEP § 1002.*

*Also, do not mail-in, either separately or included as appendices, copies of papers already of record (i.e. verbatim copies of Office actions and references).*

  
**ROBERT P. OLSZEWSKI**  
 SUPERVISORY PATENT EXAMINER  
 TECHNOLOGY CENTER 3600 Q100

## EXHIBIT G

### S P E C I F I C A T I O N

#### TITLE

#### "A SYSTEM AND A METHOD FOR PROVIDING REAL-TIME RESTAURANT REVIEWS"

5

#### BACKGROUND OF THE INVENTION

10

The present invention generally relates to a system and a method for providing real-time restaurant reviews. More specifically, the present invention relates to a system and a method for providing real-time reviewing of a restaurant within a restaurant by, for example, a patron of the restaurant who may input information into an apparatus to provide individuals outside of the restaurant with real-time information about the restaurant. The present invention further relates to a restaurant having capabilities of providing real-time reviews of the restaurant to individuals outside of the restaurant.

15

It is, of course, generally known to provide restaurant reviews that are read by many individuals prior to selection of a restaurant. Typically, restaurant reviews are printed in newspapers, magazines or other publications, or verbally expressed on, for example, radio or television. Further, it is generally known to provide restaurant reviews over a computer network, such as, for example, the internet.

20

These restaurant reviews, however, are generally provided and available after the dining experience. In other words, a reviewer often dines at a restaurant and a review of the restaurant may appear in print form days, sometimes weeks, after the reviewer has patronized the establishment. The review may be fairly current at the time the review is printed; however, often reviews are relied upon by individuals weeks, months, and even years

25

30

after the review was made. In some cases, crucial members of the staff, such as the chef, may no longer even be associated with the restaurant.

5 Providing restaurant reviews after the fact does not provide a potential patron information that may be useful, accurate and necessary to the potential patron. Moreover, other information, such as, for example, the size of the crowd in the restaurant at that time, the length of the wait, the quality of the service, the 10 specials of the day, and any other like information that may change on a daily, or even moment-by-moment basis, is never available from a restaurant review.

15 Further, most restaurant reviews are done by professional and/or paid critics. Such critics may not have tastes and/or criticisms like those of an "average patron" from which many individuals may wish to obtain a review rather than a professional critic. Further, the published restaurant review is merely one opinion from one of many people who may patronize an establishment.

20 A need, therefore, exists for an improved system and method for providing real-time restaurant reviews that overcome the problems associated with known restaurant review systems and methods as well as a restaurant that accommodates a capability for providing such reviews.

25 SUMMARY OF THE INVENTION

30 The present invention provides a system and a method for providing real-time restaurant reviews. In addition, the present invention relates to a system and a method for providing real-time restaurant reviews on a computer network, such as, for example, the internet. The real-time restaurant review may be accessed by an individual in real-time to provide information to a potential patron about the restaurant. The present invention further

relates a restaurant having a capability to provide real-time reviews.

To this end, in an embodiment of the present invention, a system is provided for transmitting real-time information regarding a restaurant. The system has an apparatus having a transmission means in the restaurant for transmitting information regarding the restaurant. A display means displays the information regarding the restaurant.

10 In an embodiment, a network is provided for receiving and storing the information.

In an embodiment, the network is the Internet.

15 In an embodiment, the system has a network that displays the first information simultaneously as the information is input into the processing unit.

In an embodiment, a receiving means is provided for receiving the information transmitted by apparatus in the restaurant.

20 In an embodiment, input means is provided for inputting the information into the apparatus.

In an embodiment, the capacity of posting the information on the Internet website is provided.

In an embodiment, a wireless transmission means is provided.

25 In another embodiment of the present invention, a method of transmitting information regarding a restaurant is provided. The method comprises the steps of: providing a first apparatus having a transmission means in the restaurant for transmitting information regarding the restaurant; inputting the information into the apparatus regarding the restaurant; and transmitting the information.

30 In an embodiment, the method further comprises the

step of: transmitting the information regarding the restaurant to a display means to be viewed by a person outside of the restaurant.

5 In an embodiment, the method further comprises the step of: providing a network wherein the information is received and stored; and retrieving the information from the network.

10 In an embodiment, the method further comprises the step of: providing a computer network; and transmitting the information to the computer network.

In an embodiment, the method further comprises the step of: providing a website on the computer network; and posting the information on the website.

15 In an embodiment, the method further comprises the step of: accessing the information via a computer.

In another embodiment of the present invention, a restaurant for providing real-time reviews to potential patrons is provided. The restaurant has an apparatus having input means and processing means wherein a patron enters information with the input means. Transmission means associated with the processing means provides for transferring the information to one or more of the patrons.

25 In an embodiment, the restaurant has a plurality of apparatuses, each having a processing means and an input means and commonly networked to each other.

In an embodiment, the information relates to the restaurant.

30 In an embodiment, the restaurant for providing real-time reviews to potential patrons further comprises: the transmission means is a radio frequency antenna.

In an embodiment, the transmission means is a connecting wire having access to a network.

In an embodiment, the restaurant has at least one table and the apparatus is provided on the table.

It is, therefore, an advantage of the present invention to provide a system and a method for providing real-time reviews of restaurants or other establishments 5 as well as a restaurant capable of accommodating the same.

Another advantage of the present invention is to provide a system and a method for providing real-time reviews of restaurants that provide information concerning the restaurant that is useful to a potential patron of the restaurant as well as a restaurant capable 10 of accommodating the same.

A further advantage of the present invention is to 15 provide a system and a method for providing real-time reviews of restaurants for reviewing food, ambience, service, recommended foods, specials and any other like information as well as a restaurant capable of accommodating the same.

A still further advantage of the present invention 20 is to provide a system and a method for providing real-time reviews of restaurants that allow potential patrons to access comments and reviews of individuals who are dining or have dined at a restaurant as well as a 25 restaurant capable of accommodating the same.

Moreover, an advantage of the present invention is to provide a system and a method for providing real-time reviews of restaurants that allow access to the comments 30 a patron or a plurality of patrons at a restaurant as well as a restaurant capable of accommodating the same.

A still further advantage of the present invention is to provide a system and a method for providing real-time reviews of restaurants that allow access to comments

of restaurant patrons on a portable device such as, for example, a telephone or portable Internet device, as well as a restaurant capable of accommodating the same.

5 And, another advantage of the present invention is to provide a system and a method for providing real-time reviews of restaurants that provide an apparatus to a restaurant reviewer in the restaurant to write a real-time restaurant review as well as a restaurant capable of accommodating the same.

10 Yet another advantage of the present invention is to provide a system and a method for providing real-time reviews of restaurants that allow an individual to link the apparatus to the Internet to post his or her real-time review of the restaurant as well as a restaurant capable of accommodating the same.

15 Additional features and advantages of the present invention are described in, and will be apparent from, the detailed description of the presently preferred embodiments and from the drawings.

20 BRIEF DESCRIPTION OF THE DRAWINGS

Figure 1 illustrates a perspective view of an area of a restaurant and an apparatus for providing a real-time review of a restaurant in an embodiment of the present invention.

25 Figure 2 illustrates a black box diagram of an embodiment of a system for providing real-time restaurant reviews.

DETAILED DESCRIPTION OF THE PRESENTLY  
PREFERRED EMBODIMENTS

30 The present invention generally relates to a system and a method for providing a real-time review of a restaurant. In addition, the present invention provides a system and a method for providing reviews of

restaurants and for providing this information to potential patrons outside the restaurant in real-time. Still further, the present invention relates to a restaurant having a capability for providing real-time reviews to potential patrons outside the restaurant.

Referring now to the drawings wherein like numerals refer to like parts, an interior area 1 of a restaurant is generally illustrated. The area 1 of the restaurant may include a table 10, a server 12 and any other items or individuals that may generally be found in a restaurant and that may be apparent to those skilled in the art. Further, the restaurant may be an eating establishment and/or a bar, or any other establishment that may provide food or drinks.

At the table 10 may be a restaurant patron 14. The restaurant patron 14 may be utilizing the services of the restaurant, such as, for example, having a meal and/or enjoying a drink or otherwise using the restaurant in any way that may be apparent to those skilled in the art.

Contained on the table 10 may be an apparatus 16 that may allow the patron 14 to provide information about the restaurant to a computer network, such as, for example, the internet. The apparatus 16 may contain a processing unit 52 (as shown in Figure 2), a keyboard 18 and/or a mouse 20 or other like device for entering information into the processing unit 52. Further, the apparatus 16 may include a display 22 that may provide information to the patron 14. This information may include a standard form or other like interface that may allow the patron 14 to enter information into the apparatus 16. Further, the display 22 may be a touch-screen whereupon the patron 14 may input information into the apparatus 16 by merely touching specific areas on the

touch-screen using an electronic pen, his or her finger, or other like means apparent to those skilled in the art.

Alternatively, the apparatus 16 may be a portable device that lets a restaurant patron input a restaurant review thereinto to post in real-time on a computer network. The apparatus 16 may be, for example, a cellular phone having access to the Internet or may be any other like device apparent to those skilled in the art. For example, a Timeport Webphone™ manufactured by Motorola or a Palm Pilot™ organizer manufactured by 3Com, Inc. may be used.

The apparatus 16 may include a transmission means such as an antenna 24 and/or a connecting wire 26. The antenna 24 and/or the connecting wire 26 may provide a connection to a computer network such as, for example, the Internet, so that the patron 14 may post his or her review of the restaurant.

The patron 14 may provide information concerning the particular restaurant that the patron 14 is experiencing to provide real-time information about the restaurant as the patron 14 is using the restaurant. The patron 14 may review the food, such as the quality thereof, the selection, the type and/or any other quality that may be apparent to those skilled in the art. Further, the patron 14 may review the ambience, the size of the crowd, the length of the wait for a table, the service, recommended foods, bad foods, and/or specials of the day or any other like information. Further, any other quality of the restaurant may be reviewed as may be apparent to those skilled in the art; this invention should not be limited as to the particular qualities as specified above.

Providing review information in real-time may allow

a potential patron the ability to determine specific characteristics of a plurality of restaurants to determine which restaurant the potential patron may wish to patronize. Further, the potential patron may receive 5 a plurality of reviews from a plurality of restaurant patrons that are in the same restaurant to obtain a survey of the restaurant from a plurality of points of view. The potential patron may also activate an instant messaging capability to direct specific questions to the 10 patron 14 of the restaurant. The instant message may be random and received by any patron within the restaurant.

Referring now to Figure 2, a black box diagram of a system 50 is provided. The system 50 may have a processing unit 52, an input means 54, a display means 15 56 and a transmission means 58. The patron 14 may use the input means 54 to input specific information about the restaurant into the processing unit 52. The patron 14 may use the display means 56 to review what the patron 14 inputs into the processing unit 52. After the patron 20 14 has input information concerning the particular restaurant 1 into the processing unit 52 via the input means 54, the patron 14 may send the information via the transmission means 58 to a network 60. The network 60 may be any type of information network, such as, for 25 example, the Internet.

Connected to the network 60 may be a display means 62 such as, for example, a computer display monitor or any other like display means capable of displaying information thereon. A user may use the display means 30 62 to view the information posted on the network 60 by the patron 14. This may be accomplished as the patron 14 is utilizing the particular restaurant. The user may then receive real-time information about the conditions

of the restaurant. The user may then decide whether he wishes to patronize that restaurant or may use the information for any reason that may be apparent to those skilled in the art.

5       Further, a portable display means 64 may be connected to the network 60 via a portable connecting wire or a radio transmission means via an antenna. For example, the portable display means may be a telephone having a screen thereon whereupon the user may show 10 information posted by the patron 14 in the restaurant.

15      It should be understood that various changes and modifications to the presently preferred embodiments described herein will be apparent to those skilled in the art. Such changes and modifications may be made without departing from the spirit and scope of the present invention and without diminishing its attendant advantages. It is, therefore, intended that such changes and modifications be covered by the appended claims.

I Claim:

1. A system for transmitting real-time information regarding a restaurant, the system comprising:
  - an apparatus having a transmission means in the restaurant for transmitting information regarding the restaurant; and
  - a display means for displaying the information regarding the restaurant.
2. The system of Claim 1 further comprising:
  - a network for receiving and storing the information.
3. The system of Claim 2 wherein the network is the Internet.
4. The system of Claim 1 wherein the first information is displayed on the display means simultaneously as the information is input into the processing unit.
5. The system of Claim 1 further comprising:
  - a receiving means for receiving the information transmitted by the apparatus in the restaurant.
6. The system of Claim 1 further comprising:
  - an input means for inputting the information into the apparatus.
7. The system of Claim 1 wherein the information is posted on an Internet website.
8. The system of Claim 1 wherein the transmission means is wireless.
9. A method for transmitting information regarding a restaurant, the method comprising the steps of:
  - providing a first apparatus having a transmission means in the restaurant for transmitting information regarding the restaurant;
  - inputting the information into the apparatus regarding the restaurant; and
  - transmitting the information.

10. The method of Claim 9 further comprising the step of:

transmitting the information regarding the restaurant to a display means to be viewed by a person outside of the restaurant.

11. The method of Claim 9 further comprising the steps of:

providing a network wherein the information is received and stored; and

retrieving the information from the network.

12. The method of Claim 9 further comprising the steps of:

providing a computer network; and

transmitting the information to the computer network.

13. The method of Claim 12 further comprising the steps of:

providing a website on the computer network; and posting the information on the website.

14. The method of Claim 9 further comprising the steps of:

accessing the information via a computer.

15. A restaurant for providing real-time reviews to potential patrons, the restaurant comprising:

an apparatus having an input means and processing means wherein a patron enters information with the input means;

transmission means associated with the processing means for transferring the information to one or more of the potential patrons.

16. The restaurant of Claim 15 further comprising:

a plurality of apparatuses, each having a processing means and an input means and are commonly

networked to each other.

17. The restaurant of Claim 15 wherein the information relates to the restaurant.

18. The restaurant of Claim 15 wherein the transmission means is a radio frequency antenna.

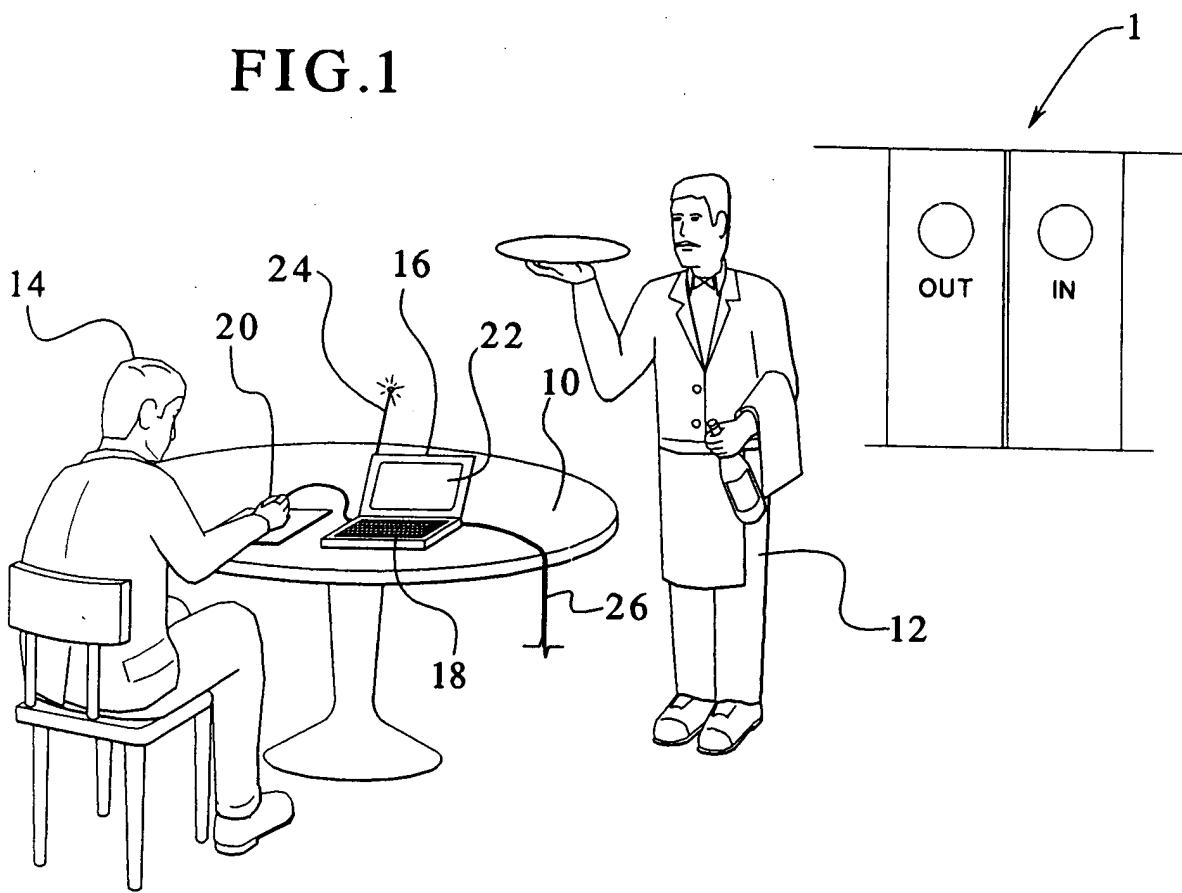
19. The restaurant of Claim 15 wherein the transmission means is a connecting wire having access to a network.

20. The restaurant of Claim 15 wherein the restaurant has at least one table and the apparatus is provided on the table.

ABSTRACT OF THE DISCLOSURE

A system and a method for providing real-time restaurant reviews are provided as well as a restaurant having the capability to provide real-time reviews. The system and method for providing real-time restaurant reviews provide an apparatus for inputting information regarding the quality of the restaurant or other like information relating to the restaurant. The information input by the patron may then be displayed on a network, such as, for example, a computer network like the internet, whereupon other potential restaurant patrons may view the information immediately upon the posting of the information. Other potential patrons may use the information to decide whether they wish to patronize the particular restaurant. Further, a plurality of reviews may be compiled so that a potential patron may receive different viewpoints concerning various features of the restaurant.

**FIG.1**



**FIG.2**

